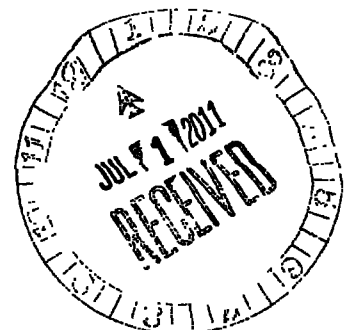




655 Fifteenth Street, NW, Suite 225
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230550

July 1, 2011

FEE RECEIVED

JUL 01 2011

Karl Morell
Of Counsel

kmorell@balljanik.com

BY HAND DELIVERY **SURFACE
TRANSPORTATION BOARD**

Cynthia Brown
Chief, Section of Administration
Surface Transportation Board
Office of Proceedings
395 E Street, SW
Washington, DC 20423

FILED

JUL 01 2011

**SURFACE
TRANSPORTATION BOARD**

Re: STB Finance Docket No. 35533, East Penn Railroad, L.L.C. --
Lease and Operation Exemption -- Norfolk Southern Railway
Company

Dear Ms. Brown:

Attached for filing are the original and ten copies of a Verified Notice of Exemption under 49 C.F.R. § 1150.41 and two checks covering the \$1,800 filing fee. Also enclosed is a Disc containing the Notice and Summary.

Please time and date stamp the extra copy of the Notice of Exemption and return it with our messenger.

If you have any questions, please contact me.

Sincerely,

Karl Morell
Of Counsel

**ENTERED
Office of Proceedings**

JUL 01 2011

**Part of
Public Record**

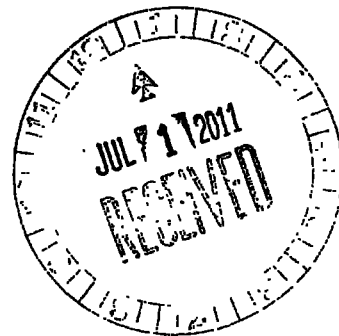
Enclosures

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB FINANCE DOCKET NO. 35533

**EAST PENN RAILROAD, L.L.C.
--LEASE AND OPERATION EXEMPTION--
NORFOLK SOUTHERN RAILWAY COMPANY**

**VERIFIED NOTICE OF EXEMPTION
Pursuant to 49 C.F.R. § 1150.41, Et Seq.**



**KARL MORELL
Of Counsel
BALL JANIK LLP
Suite 225
655 Fifteenth Street, N.W.
Washington, D.C. 20005
(202) 638-3307**

**Attorney for:
EAST PENN RAILROAD, L.L.C.**

Dated: July 1, 2011

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB FINANCE DOCKET NO. 35533

EAST PENN RAILROAD, L.L.C.
--LEASE AND OPERATION EXEMPTION--
NORFOLK SOUTHERN RAILWAY COMPANY

VERIFIED NOTICE OF EXEMPTION
Pursuant to 49 C.F.R. § 1150.41, Et Seq.

East Penn Railroad, L.L.C. ("ESPN"), a Class III rail carrier, files this Notice of Exemption pursuant to 49 C.F.R. Part 1150, Subpart E--Exempt Transactions Under 49 U.S.C. 10902, to permit ESPN to lease certain rail lines from Norfolk Southern Railway Company ("NSR").

In support of this Notice of Exemption, ESPN submits the following information as required by 49 C.F.R. § 1150.43:

(a) Full name and address of applicant:

East Penn Railroad, L.L.C.
505 S. Broad Street
Kennett Square, PA 19348

(b) Applicant's Representative:

Karl Morell
Of Counsel
BALL JANIK LLP
Suite 225
655 Fifteenth Street, N.W.
Washington, DC 20005
(202) 638-3307

(c) Statement of Agreement:

ESPN has entered into an agreement with the NSR for the lease of the rail lines.

(d) The operator of the property:

ESPN will be the operator on the involved rail lines.

(e) Summary of proposed transaction:

(1) The name and address of the entity leasing the subject property is:

Norfolk Southern Railway Company
Three Commercial Place
Norfolk, VA 23510

(2) ESPN's lease of the rail lines is expected to be consummated on or shortly after the effective date of this notice of exemption.

(3) ESPN is proposing to lease the following rail lines from NSR: (1) the York Industrial Track located between Mileposts YR 7.50 and YR 12.31 ("York Track") (4.81 miles in length); and (2) the Wye Track that connects the York Track to NSR's line between Mileposts YR 12.31 and

YR 12.70 (“Wye Track”) (0.39 miles in length).¹ The York Track and Wye Track are located in York, Pennsylvania.

(4) The length of the rail lines being leased is approximately 5.2 miles.

(f) Maps of the rail lines being leased are attached as Exhibit A.

(g) ESPN hereby certifies that ESPN's projected revenues as a result of this transaction will not result in ESPN becoming a Class II or Class I rail carrier. ESPN further certifies that its projected annual rail freight revenues from operation of the leased lines, when combined with ESPN's projected revenues from current rail freight operations, will not exceed \$5 million. Consequently, the requirements of 49 C.F.R. § 1150.42(e) do not apply to this transaction.

(h) The Lease Agreement between NSR and ESPN contains a provision that will enable ESPN to reduce its lease payments by receiving a credit for each car interchanged with NSR. NSR initially proposed a fixed rental payment with no option to reduce the rent. ESPN requested the lease credit option in order to provide it with an opportunity to earn lower rental payment so that ESPN will be able to invest in improvements on the leased lines to increase traffic levels. The affected interchange point is York, Pennsylvania. A copy of the final Lease Agreement and Interchange Agreement are being filed with the Board under 49 C.F.R. §§ 1104.14(a) and 1150.43(h)(1)(ii).

A caption summary, as required by 49 C.F.R. § 1150.44, is attached.

¹ ESPN will also be leasing from NSR certain real property located under the Wye Track and a service road extending from Windsor Street to real property.

ENVIRONMENTAL AND HISTORIC IMPACTS

ESPN is leasing the lines from NSR for continued rail operations. Further Surface Transportation Board ("Board") approval is required for ESPN to discontinue any service, and there are no plans to dispose of or alter properties subject to Board jurisdiction that are 50 years old or older. Hence, this Notice of Exemption does not require an historic report under 49 C.F.R. § 1105.8(b)(1).

ESPN's lease will not result in significant changes in carrier operations. There will not be a diversion of: (1) more than 1,000 rail carloads a year to motor carriage; or (2) an average of 50 carloads per mile per year for any part of this line to motor carriage. This transaction will not result in: (1) an increase in rail traffic of at least 100 percent or an increase of at least eight trains a day on any segment of the line; (2) an increase of rail yard activity of at least 100 percent; or (3) an average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day. ESPN's lease of the rail lines will not affect a Class I or nonattainment area under the Clean Air Act. In any event, the thresholds of 49 C.F.R. § 1105.7(e)(5)(ii) will not be exceeded. Finally, the transportation of ozone depleting materials is not contemplated. Therefore, no environmental documentation is required under 49 C.F.R. § 1105.6(c)(2).

This action will not significantly affect either the quality of the human environment or energy conservation.

Respectfully submitted,

A handwritten signature in black ink that reads "Karl Morell". The signature is written in a cursive style with a horizontal line underneath the name.

KARL MORELL

Of Counsel

BALL JANIK LLP

Suite 225

655 Fifteenth Street, N.W.

Washington, DC 20005

(202) 638-3307

Attorney for:

EAST PENN

RAILROAD, L.L.C.

Dated: July 1, 2011

EXHIBIT A

MAPS

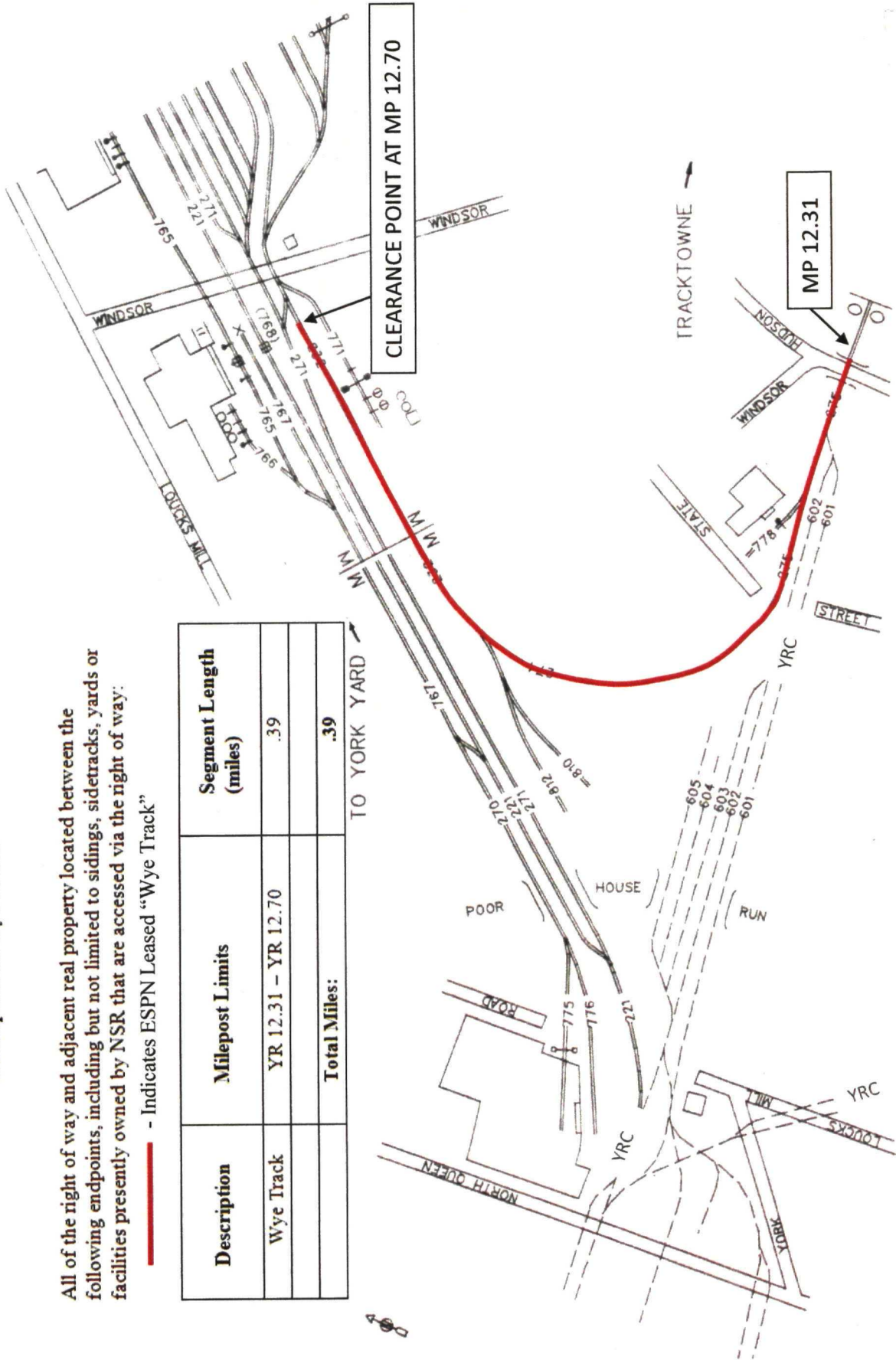
ATTACHMENT B

Description of Wye Track

All of the right of way and adjacent real property located between the following endpoints, including but not limited to sidings, sidetracks, yards or facilities presently owned by NSR that are accessed via the right of way:

— Indicates ESPN Leased "Wye Track"

| Description | Milepost Limits | Segment Length (miles) |
|-------------|---------------------|---------------------------|
| Wye Track | YR 12.31 - YR 12.70 | .39 |
| | Total Miles: | .39 |



SURFACE TRANSPORTATION BOARD

NOTICE OF EXEMPTION

STB FINANCE DOCKET NO. 35533

**EAST PENN RAILROAD, L.L.C.
--LEASE AND OPERATION EXEMPTION--
NORFOLK SOUTHERN RAILWAY COMPANY**

East Penn Railroad, L.L.C. ("ESPN"), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to lease from the Norfolk Southern Railway Company ("NSR") the following rail lines located in York, Pennsylvania: (1) the York Industrial Track located between Mileposts YR 7.50 and YR 12.31 ("York Track") (4.81 miles in length); and (2) the Wye Track that connects the York Track to NSR's line between Mileposts YR 12.31 and YR 12.70 ("Wye Track") (0.39 miles in length). The York Track and the Wye Track are 5.2 miles in length.


Comments must be filed with the Board and served on Karl Morell, Of Counsel, BALL JANIK LLP, Suite 225, 655 Fifteenth Street, N.W., Washington, DC 20005, (202) 638-3307.

This notice is filed under 49 C.F.R. 1150.41. If the notice contains false or misleading information, the exemption is void ab initio. The filing of a petition to revoke will not automatically stay the transaction.

VERIFICATION

STATE OF PENNSYLVANIA)
)
COUNTY OF CHESTER) ss.

I, Robert C. Parker, being duly sworn depose and state that I am President and Chief Executive Officer of the East Penn Railroad, L.L.C., that I am authorized to make this verification, and that I have read the foregoing Notice of Exemption and know the facts asserted therein are true and accurate as stated to the best of my knowledge, information, and belief.


Robert C. Parker

SUBSCRIBED AND SWORN TO before me this 30 day of June, 2011, in the County of Chester, State of Pennsylvania.

My Commission Expires: Sept 3, 2012


Notary Public

